

(Stipulating Parties Listed on Signature Pages)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. 07-5944 SC
MDL No. 1917

This Document Relates to:

*Sears, Roebuck and Co., et al. v. Chunghwa
Picture Tubes, Ltd., et al.*, No. 11-cv-05514

*Sears, Roebuck and Co., et al. v. Technicolor
SA, et al.*, No. 13-cv-05262

**STIPULATION AND ~~[PROPOSED]~~
ORDER VOLUNTARILY
DISMISSING SEARS AND
KMART'S MASSACHUSETTS
CONSUMER PROTECTION ACT
CLAIM**

STIPULATION AND [PROPOSED] ORDER VOLUNTARILY DISMISSING
SEARS AND KMART'S MASSACHUSETTS CONSUMER PROTECTION ACT CLAIM
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1 Pursuant to Civil Local Rules 6-2 and 7-12, the undersigned Defendants and Plaintiffs
2 Sears Roebuck and Co. and Kmart Corp. (collectively, the “Stipulating Plaintiffs”), have
3 conferred by and through their counsel and, subject to the Court’s approval, HEREBY
4 STIPULATE AS FOLLOWS:

5 WHEREAS, there is pending in the United States District Court for the Northern
6 District of California a multidistrict consolidated proceeding comprised of actions brought on
7 behalf of purported purchasers of cathode ray tubes (“CRT”) and CRT products, captioned as
8 *In re: Cathode Ray Tube (CRT) Antitrust Litigation*, Case No. 3:07-cv-05944 SC (MDL No.
9 1917) (the “MDL Proceedings”);

10 WHEREAS, on October 3, 2013, the Stipulating Plaintiffs filed a Second Amended
11 Complaint for Damages and Injunctive Relief (“Second Amended Complaint”) in which the
12 Stipulating Plaintiffs assert a cause of action under the Massachusetts Consumer Protection
13 Act (MDL Dkt. No. 1973, ¶ 256);

14 WHEREAS, on November 13, 2013, the Stipulating Plaintiffs filed a separate
15 Complaint for Damages and Injunctive Relief in which the Stipulating Plaintiffs assert a
16 cause of action under the Massachusetts Consumer Protection Act (Case No. 13-05262, Dkt.
17 No. 1, ¶ 265);

18 WHEREAS, on October 3, 2013, Schultze Agency Services, LCC (“Tweeter”) filed a
19 First Amended Complaint (“Tweeter’s First Amended Complaint”) in which it asserts a
20 cause of action under the Massachusetts Consumer Protection Act (MDL Dkt. No. 1980,
21 ¶¶ 236-253);

22 WHEREAS, on November 4, 2013, Defendants Toshiba Corporation, Toshiba
23 America, Inc., Toshiba America Consumer Products, LLC, Toshiba America Information
24 Systems, Inc., and Toshiba America Electronic Components, Inc. moved to dismiss
25 Tweeter’s First Amended Complaint (MDL Dkt. No. 2108) (the “Motion to Dismiss”) in part
26 because the Massachusetts Consumer Protection Act does not confer indirect purchaser
27 standing to entities engaged in trade or commerce;

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1 WHEREAS, on November 4, 2013, Koninklijke Philips N.V., and Philips Electronics
2 North America Corporation joined the Motion to Dismiss (MDL Dkt. No. 2187);

3 WHEREAS, on March 13, 2014, the Court entered an order granting in part and
4 denying in part the Motion to Dismiss (MDL Dkt. No. 2436) (the “Motion to Dismiss
5 Order”);

6 WHEREAS, the Court’s Motion to Dismiss Order dismissed with prejudice
7 Tweeter’s Massachusetts Consumer Protection Act claim against Toshiba Corporation,
8 Toshiba America, Inc., Toshiba America Consumer Products, LLC, Toshiba America
9 Information Systems, Inc., Toshiba America Electronic Components, Inc., Koninklijke
10 Philips N.V., and Philips Electronics North America Corporation;

11 WHEREAS, the undersigned Defendants seek to dismiss the Stipulating Plaintiffs’
12 Massachusetts Consumer Protection Act Claim relying upon the same Massachusetts law
13 arguments that were presented in the Motion to Dismiss; and

14 WHEREAS, the Stipulating Plaintiffs and the undersigned Defendants seek to resolve
15 the Defendants’ Massachusetts Consumer Protection Act arguments in a manner that
16 conserves the resources of the Court while at the same time preserving any and all appeal
17 rights of both the Stipulating Plaintiffs and the undersigned Defendants;

18 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between
19 counsel for the Stipulating Plaintiffs and counsel for the undersigned Defendants in the
20 above-captioned actions, as follows:

- 21 1. The Stipulating Plaintiffs’ Massachusetts Consumer Protection Act claim is
- 22 voluntarily dismissed with prejudice;
- 23 2. By virtue of this Stipulation, the Stipulating Plaintiffs and the undersigned
- 24 Defendants do not waive any of their appeal rights to the state law issues
- 25 addressed in this Stipulation.
- 26 3. This Stipulation has no bearing on, and is without prejudice to, all other
- 27 claims asserted by the Stipulating Plaintiffs.
- 28

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1 Dated: November 6, 2014

Respectfully submitted,

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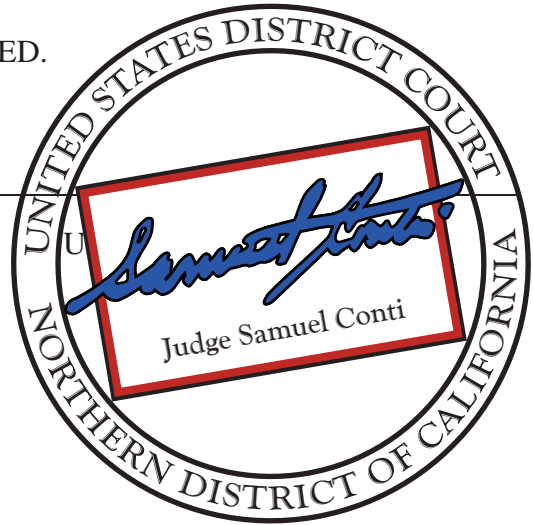
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 11/20/2014



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